

REMARKS

Election/Restriction

Claims 31 and 32 are withdrawn

Claim objections

The punctuation has been corrected as suggested.

Claim rejections – 35 USC §103

The applicant respectfully traverses the claim rejections over the Schneider article in view of WO 02/30638 and/or WO 01/53050. In support thereof is attached the declaration of the inventor Marc Schneider.

As explained in the declaration, the mixing of styrene with maleic anhydride (MA) causes an uncontrollable polymerization reaction, the result of which is a solid or a gel that is unusable as a wood impregnation formulation. This is the result that would be expected by one skilled in the art any time MA and styrene are present in the same mixture.

The present invention provides however a mixture in which styrene and MA are present in the same formulation, without such an uncontrolled polymerization occurring. According to the invention this is accomplished by the order of mixing, wherein two precursor solutions are first prepared (FA + MA; and Styrene + initiator), and the precursor solutions mixed together. The applicant believes that the cited art does not suggest a formulation as claimed.

The examiner argues that article to Schneider combined with the teachings of '638 results in a mixture of initiated methyl methacrylate (MM) + initiated furfuryl alcohol (FA), the initiator for FA being the maleic anhydride from '638. For the sake of the following argument only, the applicant will assume that this is a valid conclusion.

One skilled in the art understands, however, that MM mixed with MA does not exhibit uncontrolled polymerization such as the styrene+MA reaction discussed in the attached declaration.

The examiner next argues that since '050 discloses that MM and styrene can be used with the same initiators, that it would therefore be obvious to substitute styrene for MM in the above-derived formulation. While this may be a valid conclusion for the second precursor solution viewed in isolation, this is respectfully believed to be an erroneous conclusion when the second solution is to be mixed with another solution containing MA. It appears that the examiner has viewed the two precursor solutions separately, and has failed to consider the invention as a whole as required by the correct standard of review. The "invention as a whole" in this case is a

solution in which styrene from the second precursor is surprisingly present in the same formulation as maleic anhydride from the first precursor without an uncontrollable polymerization occurring.

The '050 reference does not disclose MM or styrene in the presence of maleic anhydride. Nothing in '050 nor any other cited art suggests that styrene could be used in a formulation comprising maleic anhydride. As the enclosed declaration explains one skilled in art the would expect such a substitution to result in uncontrollable polymerization.

Conclusion

Based upon the foregoing, favourable reconsideration of the pending rejections is solicited.